

1 Steve W. Berman (*pro hac vice*)  
2 HAGENS BERMAN SOBOL SHAPIRO LLP  
3 1301 Second Avenue, Suite 2000  
4 Seattle, WA 98101  
5 Telephone: (206) 623-7292  
6 Facsimile: (206) 623-0594  
7 E-mail: steve@hbsslaw.com

8 *Counsel for Plaintiff Rachel Banks Kupcho*  
9 [Additional Counsel Listed in Signature Block]

10 UNITED STATES DISTRICT COURT  
11  
12 NORTHERN DISTRICT OF CALIFORNIA  
13  
14 SAN JOSE DIVISION

15 MAXIMILIAN KLEIN and SARAH )  
16 GRABERT, individually and on behalf )  
17 of all others similarly situated, )

18 Plaintiff,

19 v.

20 FACEBOOK, INC., a Delaware )  
21 corporation headquartered in California, )

22 Defendant.

23 This document relates to:

24 *Banks Kupcho v. Facebook, Inc.*, No. )  
25 4:20-cv-08815-JSW; )

26 *Steinberg v. Facebook, Inc.*, No. 3:20-cv- )  
27 09130-VC; )

28 *Dames v. Facebook, Inc.*, No. 3:20-cv- )  
08817-TSH. )

Case No. 5:20-cv-08570-LHK

**PLAINTIFF BANKS KUPCHO'S  
RESPONSE TO KLEIN PLAINTIFFS'  
MOTION FOR ADMINISTRATIVE  
RELIEF TO CONSIDER WHETHER  
CONSUMER CASES SHOULD BE  
RELATED PURSUANT TO CIVIL  
LOCAL RULE 3-12**

Plaintiff Rachel Banks Kupcho (“Plaintiff” or “Banks Kupcho”) submits her response to Klein Plaintiffs’ administrative motion to relate their case to other consumer cases (“*Klein Motion*”). Banks Kupcho believes that the motion to relate is premature given the pendency of a motion to relate in the *Real Chat* matter, but does not generally oppose the relation or any necessary coordination among the cases.

### ARGUMENT

The requested relief in the *Klein Motion* is premature at this time. As discussed in the *Klein Motion*, there are already pending motions filed by Facebook in *Reveal Chat Holdco LLC et al. v. Facebook, Inc.*, Case No. 5:20-cv-00363-BLF (“*Reveal Chat*”) that seek to relate *Klein et al. v. Facebook, Inc.*, Case No. 5:20-cv-08570- LHK; *Banks Kupcho v. Facebook, Inc.*, No. 4:20-cv-08815-JSW; *Dames et al. v. Facebook, Inc.*, No. 3:20-cv-08817-HSG; *Steinberg v. Facebook, Inc.* 3:20-cv-09130-VC (collectively, the “Consumer Cases”).<sup>1</sup> Thus, the *Reveal Chat* Court’s decision on the pending motions may grant the relief sought in the *Klein Motion*.

If this Court does find that that *Klein Motion* is timely, formal consolidation and a leadership structure would be necessary for the Consumer Cases and Plaintiff Banks Kupcho requests that a future briefing schedule be set to allow the parties to confer and file any respective motions. Finally, Plaintiff Banks Kupcho does not oppose any future relation of the Consumer Cases, including assigning a single Magistrate Judge to oversee discovery and other pre-trial matters as proposed by the *Klein Motion*.

---

<sup>1</sup> While Plaintiff Banks Kupcho opposed consolidation of the Consumer Cases with *Reveal Chat* based upon differences between the consumer and commercial case facts and allegations, she did not oppose coordination, including for discovery purposes.

**CONCLUSION**

For the reasons stated above, this Court should deny the *Klein* Motion as premature without prejudice.

Dated: January 07, 2021

HAGENS BERMAN SOBOL SHAPIRO LLP

*s/ Steve W. Berman*

STEVE W. BERMAN

1301 Second Avenue, Suite 2000  
Seattle, WA 98101  
Telephone: (206) 623-7292  
Facsimile: (206) 623-0594  
E-mail: steve@hbsslaw.com

Shana E. Scarlett (SBN 217895)  
HAGENS BERMAN SOBOL SHAPIRO LLP  
715 Hearst Avenue, Suite 202  
Berkeley, CA 94710  
Telephone: (510) 725-3000  
Facsimile: (510) 725-3001  
E-Mail: shanas@hbsslaw.com

LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
W. Joseph Bruckner (*pro hac vice*)  
Brian D. Clark (*pro hac vice*)  
Robert K. Shelquist (*pro hac vice*)  
Rebecca A. Peterson (241858)  
Arielle S. Wagner (*pro hac vice*)  
Stephanie Chen (*pro hac vice*)  
100 Washington Avenue South, Suite 2200  
Minneapolis, MN 55401  
Telephone: (612) 339-6900  
Facsimile: (612) 339-0981  
E-mail: wjbruckner@locklaw.com  
bdclark@locklaw.com  
rkshelquist@locklaw.com  
rapeterson@locklaw.com  
aswagner@locklaw.com  
sachen@locklaw.com

**Counsel for Plaintiff**